

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

CLIFFORD W. JONES, SR.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-CV-0505-CVE-FHM
)	
BUREAU OF INDIAN AFFAIRS,)	
Respondent Agency,)	
)	
Defendant.)	

OPINION AND ORDER

Now before the Court is Defendant's Special Appearance and Motion to Dismiss Plaintiff's Complaint with Brief in Support (Dkt. # 7). Defendant moves to dismiss plaintiff's complaint on the ground that he failed to timely file his complaint with this Court.

Plaintiff received his notice of a right to sue from the United States Equal Employment Opportunity Commission on May 5, 2004. On July 28, 2004, plaintiff filed a complaint in Case No. 04-CV-584-CVE-SAJ, alleging discrimination on the basis of race and age. By Order issued July 13, 2005, the Court dismissed plaintiff's complaint without prejudice for repeated failure to effect proper service on defendant. Plaintiff refiled his complaint in this case on September 1, 2005, advancing the same claims.


Title VII requires a plaintiff to file an action within ninety days of the issuance of a right -to-sue letter. 42 U.S.C. § 2000e-5(f)(1); Brown v. Hartshorne Pub. Sch. Dist., 926 F.2d 959, 961 (10th Cir. 1991).¹ Although plaintiff timely filed his first complaint, his second complaint was filed well outside of the applicable deadline of August 3, 2004. Accordingly, the Court grants defendant's

¹ That rule also applies to claims brought pursuant to the Age Discrimination in Employment Act.

motion to dismiss (Dkt. # 7) on the ground that plaintiff's filing of his complaint in this case was untimely.

IT IS THEREFORE ORDERED that plaintiff's motion to dismiss (Dkt. # 7) is **granted**, and the complaint is hereby **dismissed with prejudice**.

DATED this 29th day of December, 2005.



CLAIRE V. EAGAN, CHIEF JUDGE
UNITED STATES DISTRICT COURT